

# HUMAN RIGHTS IN POST-1997 HONG KONG: STILL A KEY ROLE FOR INTERNATIONAL LAW?

Alison W. Conner\*

## I. INTRODUCTION

On July 1, 1997, sovereignty over Hong Kong reverted to the People's Republic of China (the PRC) and the former British colony became a Chinese special administrative region (SAR or the HKSAR). During the run-up to 1997, continued protection of rights under Chinese rule was a major cause for concern in the international community as well as in Hong Kong. Although it would be a mistake to romanticize the situation under British rule,<sup>1</sup> real differences existed in law and practice between Hong Kong and China, and consequently Hong Kong people felt great anxiety about this issue, especially after the events of June 4, 1989.<sup>2</sup>

Now, less than a year since the July 1 handover, worries over Hong Kong's economy have seemingly eclipsed fears of PRC infringements of Hong Kong people's rights. Even the foreign press has concluded that, in the wake of the Asian economic downturn, the real challenges for Hong Kong are economic, not political.<sup>3</sup> China, moreover, has apparently adhered to its stated policy of non-interference in Hong Kong affairs, and any threats to the protection of rights have come from the HKSAR government itself. After a summary of the legal framework protecting rights in Hong Kong, this essay will analyze the actions of the PRC and SAR governments since July 1. Have their actions supported or undermined that legal framework? How

---

\* Associate professor of law, University of Hawai'i School of Law. Formerly taught at the University of Hong Kong, Faculty of Law (1986-1994). J.D., Harvard; Ph.D., Cornell.

1. Although officially referred to as a "territory," Hong Kong remained a colony, and many critics of Britain's policies pointed to restrictive legislation during colonial rule. See Frank Ching, *Misreading Hong Kong*, 76 FOREIGN AFF. 53, 58-62 (May/June 1997); See, e.g., Christine Loh, *Human Rights-In a Time Warp?*, in THE OTHER HONG KONG REPORT 1996, at 89, 99 (Nyaw Mee-kau & Li Si-ming eds., 1996).
2. When the Chinese government's brutal suppression of the pro-democracy demonstrations in Beijing profoundly shocked Hong Kong people. See Johannes Chan, *Human Rights: From One Era to Another*, in THE OTHER HONG KONG REPORT 1997, at 137, 139 (Joseph Y.S. Cheng ed., 1997).
3. See Bruce Gilley, *China Eclipse*, FAR E. ECON. REV., Feb. 5, 1998, at 23; Keith Richburg, *Confidence Runs Low in Embattled Hong Kong*, INT'L HERALD TRIB., Jan. 23, 1998, at 11; Edward A. Gargan, *Economy Slips as Hong Kong Holds On to Dollar Link*, INT'L HERALD TRIB., February 3, 1998, at 15.

important is the role of international rights protection in Hong Kong—has its importance diminished or decreased since the handover?

## II. LEGAL FRAMEWORK FOR THE PROTECTION OF RIGHTS

Although Hong Kong's framework for the protection of rights includes both international and domestic legislation, the distinction between them is not always clear-cut, a consequence of Hong Kong's unusual constitutional structure.<sup>4</sup> First, both the International Covenant on Civil and Political Rights (the ICCPR)<sup>5</sup> and the International Covenant on Economic, Social and Cultural Rights (the ICESCR)<sup>6</sup> have applied to Hong Kong since Great Britain ratified them in 1976 and, with certain reservations, extended their application to its colonies.<sup>7</sup> Second, the 1984 Sino-British Joint Declaration not only promised that the "provisions of the ICCPR and the ICESCR as applied to Hong Kong shall remain in force" after 1997, but also provided for the continued protection of rights and freedoms already existing in Hong Kong.<sup>8</sup>

Hong Kong's most important domestic sources of rights are the Basic Law and the Bill of Rights. The Basic Law,<sup>9</sup> Hong Kong's mini-constitution, went into effect on July 1, 1997. It contains a broad range of rights (including economic and social) and introduces into domestic legislation the rights and freedoms granted protection by the Joint Declaration. The Basic Law, moreover, reiterates the Joint Declaration's promise that the "provisions of the ICCPR and the ICESCR as applied to Hong Kong shall

---

4. YASH GHAI, HONG KONG'S NEW CONSTITUTIONAL ORDER: THE RESUMPTION OF CHINESE SOVEREIGNTY AND THE BASIC LAW 373 (1997). See chapter 9 for a detailed analysis of these domestic and international sources of rights.

5. See 999 U.N.T.S. 171.

6. See 993 U.N.T.S. 3.

7. See GHAI, *supra* note 4, at 376. Since that time, Britain ratified other international covenants on behalf of Hong Kong, including the Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment, and the Convention on the Elimination of All Forms of Discrimination Against Women. *Id.* at 374.

8. See Joint Declaration of the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People's Republic of China on the Question of Hong Kong, preamble § 3(5), Annex I, pt. XIII, Dec. 19, 1984, U.K.-P.R.C., [hereinafter Joint Declaration], reprinted in PUBLIC LAW AND HUMAN RIGHTS: A HONG KONG SOURCEBOOK 45 (Andrew Byrnes & Johannes Chan eds., 1993) [hereinafter PUBLIC LAW AND HUMAN RIGHTS].

9. BASIC LAW OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION OF THE PEOPLE'S REPUBLIC OF CHINA (1990) [hereinafter BASIC LAW], reprinted in PUBLIC LAW AND HUMAN RIGHTS, *supra* note 8, at 84.

remain in force and shall be implemented through the laws of the Hong Kong Special Administrative Region."<sup>10</sup>

The 1991 Bill of Rights Ordinance<sup>11</sup> was adopted by the Hong Kong government in the wake of June 4, 1989 to provide reassurance to Hong Kong people that their rights would continue to receive protection after the 1997 transfer of sovereignty to China. The Bill of Rights essentially introduced the provisions of the ICCPR as they applied to Hong Kong domestic law, so its scope was therefore limited to civil and political rights. The drafters chose that model to ensure the law's survival after the 1997 transition and to give domestic expression to those rights.<sup>12</sup>

Together, these statutes should provide Hong Kong with a reasonable framework for the protection of human rights; indeed, on paper, Hong Kong people should have more extensive protection than ever before.<sup>13</sup> But the final version of the Basic Law contains a number of controversial provisions,<sup>14</sup> and its vague drafting style as well as the uncertain interpretation of its very general provisions may create difficulties.<sup>15</sup> The Chinese government, moreover, strongly opposed the Bill of Rights from its enactment, arguing that its "superior" status contravened the Basic Law.<sup>16</sup> Despite objections from Hong Kong legal experts that the Bill of Rights

---

10. *Id.*, art. 39.

11. Hong Kong Bill of Rights Ordinance, LAWS OF HONG KONG, ch. 383 (1991), reprinted in PUBLIC LAW AND HUMAN RIGHTS, *supra* note 8, at 218.

12. At the same time the Hong Kong Letters Patent were amended to entrench the ICCPR until July 1, 1997. Philip Dykes, *The Hong Kong Bill of Rights 1991: Its Origin, Content and Impact*, in THE HONG KONG BILL OF RIGHTS: A COMPARATIVE ANALYSIS 39 (Johannes Chan & Yash Ghai eds., 1993).

13. See Michael C. Davis, *Human Rights and the Founding of the Hong Kong Special Administrative Region: A Framework for Analysis*, 34 COLUM. J. TRANSNAT'L L. 301, 315 (1996); Editorial, 4 BILL OF RTS. BULL. 1 (Aug. 1997).

14. See, e.g., BASIC LAW, *supra* note 9, art. 23. Article 23 requires the HKSAR to enact laws "to prohibit any act of treason, secession, sedition, subversion against the Central People's Government or theft of state secrets, to prohibit foreign political organizations or bodies from conducting political activities in the Region, and to prohibit political organizations or bodies of the Region from establishing ties with foreign political organizations or bodies." *Id.* The Basic Law and the rights it creates have been exhaustively analyzed and commented upon in Hong Kong since the drafting process began during the mid-eighties. For bibliographies of some of those works, see GHAI, *supra* note 4, at 473 and PUBLIC LAW AND HUMAN RIGHTS, *supra* note 8, at 81-82.

15. See BASIC LAW, *supra* note 9, art. 158. Under Article 158, the Basic Law is to be interpreted by the Standing Committee of the National People's Congress of the PRC, not by the courts of the SAR. *Id.* Furthermore, the Basic Law, which is a Chinese statute, is drafted in a more general style.

16. The Bill of Rights has also received an exhaustive treatment in Hong Kong legal writings. For bibliographies of some of those works, see GHAI, *supra* note 4, at 473 and PUBLIC LAW AND HUMAN RIGHTS, *supra* note 8, at 217. See also published University of Hong Kong Faculty of Law Seminar Proceedings on the Bill of Rights; BILL OF RIGHTS BULLETIN (on file with author).

neither conflicted with the Basic Law nor had the superior status the Chinese claimed,<sup>17</sup> the PRC government in February 1997 repealed three sections of the Bill of Rights<sup>18</sup> on the grounds that they were inconsistent with the Basic Law.<sup>19</sup>

Such seemingly arbitrary action, together with the very different conception of rights obtaining in the PRC, raised concerns that the PRC might limit the protection of rights in Hong Kong, after July 1. Even the application of the ICCPR and ICECR raised questions, as the PRC denied it had any obligation to continue reporting under the two international rights covenants. On the eve of the handover, continued support for rights protection seemed problematic. To what extent have SAR and PRC actions after 1997 affected the protection of human rights in Hong Kong? What has happened since the July 1 transfer?

### III. RIGHTS UNDER THE HONG KONG SAR GOVERNMENT

#### A. Business as Usual?

The handover went smoothly and the SAR's new Chief Executive, Tung Chee-hwa, has been at pains since then to reassure foreign audiences as well as the residents of Hong Kong that all is "business as usual."<sup>20</sup> Indeed, it seems that no dramatic changes have occurred since July 1. Despite special concerns for the survival of freedom of the press, assembly

---

17. See DECISION OF THE STANDING COMMITTEE OF THE NATIONAL PEOPLE'S CONGRESS ON TREATMENT OF THE LAWS PREVIOUSLY IN FORCE IN HONG KONG IN ACCORDANCE WITH ARTICLE 160 OF THE BASIC LAW OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION OF THE PEOPLE'S REPUBLIC OF CHINA (1997), [hereinafter DECISION OF THE NATIONAL PEOPLE'S CONGRESS], reprinted in GHAI, *supra* note 4, at 499-503.

18. See GHAI, *supra* note 4, at 499-503.

19. The decision provided that sections 2(3), 3 and 4 of the Bill of Rights were not to be adopted as the laws of the SAR. Sections 3 and 4 provide for rules of construction: that all legislation predating the Bill of Rights should be given a construction consistent with it, but if not, it is to be repealed to the extent of that inconsistency; and that legislation adopted after the Bill of Rights should be construed consistently with the ICCPR. See Hong Kong Bill of Rights Ordinance, LAWS OF HONG KONG, ch. 383, §§ 3, 4; see generally GHAI, *supra* note 4, at 499-503. Section 2(3) requires that in interpreting the Bill of Rights "regard shall be had to the fact that the purpose of this Ordinance is to provide for the incorporation into the law of Hong Kong" the provisions of the ICCPR. Hong Kong Bill of Rights Ordinance, LAWS OF HONG KONG, ch. 383, § 2(3).

20. Edward A. Gargan, *Change in Hong Kong is Slow but Sure*, N.Y. TIMES (International), Oct. 9, 1997, at A10; David E. Sanger, *Hong Kong's New Leader Disputes U.S. on Rights*, N.Y. TIMES (International), Sept. 10, 1997, at A8.

and association,<sup>21</sup> many protests and demonstrations have taken place since the handover.<sup>22</sup> Additionally, human rights groups have continued to operate and no political opponents have been arrested.

Nevertheless, the official tone set by the chief executive with respect to rights is very different from that of his predecessor, Governor Patten. Overall, Mr. Tung has preferred to emphasize order and stability. In August 1997, he publicly expressed his support for "Asian values" and endorsed suggestions that the Universal Declaration of Human Rights was in need of review (and possible revision) to allow more input from developing countries.<sup>23</sup> In October 1997, in his first policy address, the chief executive paid scant attention to rights, downplaying their importance. According to one calculation, for example, he allotted only twenty-three seconds to freedom of the press.<sup>24</sup> Although much of his speech was devoted to social issues, particularly education, housing and care for the elderly, his proposals were cast in the form of remedial measures, not as economic or social rights.<sup>25</sup>

Recent incidents, moreover, suggest that the Hong Kong government is now less open to press scrutiny, at least from local journalists. Shortly after the handover, the Hong Kong Journalists Association (HKJA) expressed concern that the SAR government was granting special privileges to representatives from Chinese state media covering local Hong Kong events.<sup>26</sup> More recently, a secret government memorandum containing instructions on how to "kill" a survey, launched by the HKJA to test open government

- 
21. See generally LAWYERS COMMITTEE FOR HUMAN RIGHTS & HONG KONG HUMAN RIGHTS MONITOR, *TIGHTENING THE LEASH* (1997); AMNESTY INTERNATIONAL, *HONG KONG—HUMAN RIGHTS, LAW AND AUTONOMY: THE RISKS OF TRANSITION* (1997).
  22. According to some reports, more than 200 protests took place within the first few months after the handover. See Emily Lau, *Must Hear More From Democracy Lobbyists*, S. CHINA MORNING POST, Oct. 13, 1997, at 18; see, e.g., Robert Ng, *Qiao Protesters Try to Storm Barricades*, S. CHINA MORNING POST, Feb. 12, 1998, at 1.
  23. Echoing Prime Minister Mahathir of Malaysia, Mr. Tung stated: "I'm sympathetic to this argument. I really am." *Time to Change UN Human Rights Declaration, Says Tung*, S. CHINA MORNING POST, Aug. 29, 1997, at 6; Keith B. Richburg, *It's Business as Usual, Tung Quietly Tells U.S.*, INT'L HERALD TRIB., Aug. 28, 1997, at 4.
  24. Pro-democracy politicians criticized him for omitting any mention of civil liberties and human rights. Lau, *supra* note 22, at 18. According to Martin Lee, "He didn't even mention a word about freedom." Keith B. Richburg, *100 Days of Chinese Rule*, WASH. POST, Oct. 9, 1997, at A25 (quoting Lee).
  25. See Andy Ho, *Building on Prosperity, but Lacking Foundations in Freedom*, S. CHINA MORNING POST, Oct. 9, 1997, at I (Policy Address 97); Angela Li & Rodger Lee, *Martin Lee Chides Neglect of Freedom*, S. CHINA MORNING POST, Oct. 9, 1997, at II (Policy Address 1997); Keith Richburg, *Hong Kong's Leader Looks Ahead*, INT'L HERALD TRIB., Oct. 9, 1997, at 10.
  26. See Jimmy Cheung, *Journalists Worry Over "Privileges" for Mainland Media*, HONG KONG STANDARD, July 18, 1997, at 4.

claims, caused an uproar when it was leaked to the press.<sup>27</sup> Even more ominous is the perceived threat to the independence of Radio Television Hong Kong (RTHK) after a Hong Kong member of a PRC body launched an attack on the government-run station for failing to promote government policy and suggested that the chief executive should exercise firmer control over it. Although political and professional bodies defended RTHK and argued for its continued autonomy, many interpreted Mr. Tung's lukewarm response as a first step towards control over the government-supported media.<sup>28</sup>

Freedom of the press was already a source of concern even before the handover, although the degree of self-censorship is hard to gauge. Since 1995 criticism of the PRC government has often been muted, but the situation has not noticeably worsened and no official restraints have been placed on the press.<sup>29</sup> The Hong Kong press has in fact been extremely critical of the SAR government, particularly for its handling of the of the late-1997 bird flu crisis and more generally for some of its actions on the economic front.<sup>30</sup>

How far self-censorship might carry over to other businesses in the SAR is even less certain, and public reaction has so far limited its spread. Several films that China found displeasing apparently could not be shown in the SAR, but more recent reports suggest that at least one found a distributor willing to screen it.<sup>31</sup> In a bizarre incident, a major Hong Kong hotel issued booking guidelines banning the discussion of human rights and politics on its

- 
27. See *Secret Memo on How to Deceive Journalists* (Jan 7, 1998) <hknews@ahkcus.org> (on file with author).
28. See, e.g., No Kwai-Yan, *Who's Your Real Boss, Critic Xu Asks RTHK*, S. CHINA MORNING POST (Mar. 7, 1998) <<http://www.scmp.com/news>>; Carmen Cheung & Cynthia Wan, *Tsui Inviting Mainland Interference with RTHK Criticism Says Chan*, HONG KONG STANDARD (Mar. 6, 1998) <<http://www.hkstandard.com>>; Edmond Tong, *Democrats Slam Tsui's Attack on RTHK*, HONG KONG STANDARD <<http://www.hkstandard.com>>; Margaret Ng, *Slow Road to Censorship*, S. CHINA MORNING POST (Mar. 6, 1998) <<http://www.scmp.com/news>>; Linda Choy and Chris Yeung, *Tung Sparks RTHK Autonomy Fears*, S. CHINA MORNING POST (Mar. 5, 1998) <<http://www.scmp.com/news>>.
29. See Philip Bowring, *What's Changing in Hong Kong*, INT'L HERALD TRIB., Aug. 27, 1998, at 8.
30. The Hong Kong press has been extremely critical of the government's handling of the bird flu crisis, although that is arguably more a reflection of the general mood of the community. See *Taking Charge*, S. CHINA MORNING POST (International), Jan. 10, 1998, at 10; Keith B. Richburg, *Hong Kong Faulted on Handling of "Bird Flu" Crisis*, WASH. POST, Jan. 4, 1998, at A17.
31. But as of this writing none had yet appeared at a Hong Kong cinema. See Glenn Schloss & Gren Manuel, *"Anti-China" Films Set for Cinemas*, S. CHINA MORNING POST (Dec. 4, 1997) <<http://www.scmp.com/news>>; Glenn Schloss, *Beijing Pledges Hollywood Anti-China Films Can Be Screened*, SUNDAY MORNING POST, Jan. 1, 1998, at 5; Simon Buerk, *Controversial Movie Man Puts "Two Systems" to Test*, S. CHINA MORNING POST (International), Jan. 31, 1998, at 6. The films are "Red Corner," "Seven Years in Tibet" and "Kundun."

premises. When leaked to the press, the guidelines caused an uproar, and the hotel announced that it was dropping them (while maintaining it was simply trying to protect its guests).<sup>32</sup>

## B. Restrictive Legislation

More important than such changes in tone, the HKSAR government has already introduced legislation restricting, or further reducing, rights promised by pre-handover laws.<sup>33</sup> The provisional legislature, the body handpicked to replace the pre-handover Legislative Council until elections are held for the first regular legislature, has amended both the Public Order Ordinance and the Societies Ordinance. The two ordinances had been revised in 1991 to bring them into line with the Bill of Rights (and thus the ICCPR), but China opposed the changes and in February 1997 repealed "major amendments" to those laws (along with the three sections it objected to in the Bill of Rights).<sup>34</sup>

The new versions of the two ordinances were adopted after a period of consultation in Hong Kong, and strong public protests resulted in fewer restrictions in the enacted versions than in the originally proposed form.<sup>35</sup> As a result of these amendments, however, simple notification of one's intentions to demonstrate is no longer sufficient. Groups now need actual permission from the police to organize a protest, but permission may be denied in the interests of "national security." Before the amendments, societies were only required to notify the government of their formation to have legal existence. Now, the government may deny registration to a society, with national security again a grounds for denial of registration. The amended Societies Ordinance also bans local societies deemed to be "political organizations" from receiving foreign funding or establishing links with foreign political organizations.<sup>36</sup>

Shortly after these amendments went into effect, the Hong Kong Security Bureau issued new police guidelines, ostensibly to help police apply

---

32. See Niall Fraser, *Furama Drops Ban on Politics and Human Rights Conferences* (Dec. 3, 1997) <hknews@ahkcus.org> (on file with author).

33. Democratic Party leader Martin Lee called this the "slow squeeze." See Martin Lee, *The Slow Squeeze on Hong Kong*, WASH. POST, Sept. 12, 1997, at A25.

34. See generally DECISION OF THE NATIONAL PEOPLE'S CONGRESS, *supra* note 17.

35. See Edward A. Gargan, *Hong Kong's Government-to-Be Gives a Bit on Rights Cutbacks*, N.Y. TIMES (International), May 16, 1997, at A10.

36. See Cecilia So & Michael Smith, *Outrage as PLC Passes Order Law*, HONG KONG STANDARD, June 15, 1997, at 1; HUMAN RIGHTS WATCH, HUMAN RIGHTS WATCH WORLD REP. 1998, at 181-82 (1998) [hereinafter HUMAN RIGHTS WATCH WORLD REP. 1998].

the concept of national security as defined by the revised Public Order and Societies Ordinances. The guidelines list advocacy of independence for Taiwan and Tibet as grounds for refusing permission to demonstrate; the police would also be able to refuse, or cancel, the registration of societies believed to be a risk to national security.<sup>37</sup> The police guidelines were opposed by human rights groups, which have also called for curbs on the police after a series of "shocking incidents of abuse."<sup>38</sup>

In July 1997, the provisional legislature also suspended three labor laws that granted trade unions the right to bargain collectively and to use funds for political purposes, and that prohibited anti-trade union discrimination.<sup>39</sup> Although those ordinances had been adopted to bring Hong Kong into line with international labor covenants, the provisional legislature, without any public consultation, repealed the legislation relating to collective bargaining and anti-union discrimination later in 1997.<sup>40</sup>

More recently, in February 1998 the provisional legislature voted, despite objections from both the Law Society and the Bar Association,<sup>41</sup> as well as human rights groups,<sup>42</sup> to repeal an amendment to the Bill of Rights, which was passed by the now disbanded Legislative Council just before the July 1 handover. The Bill of Rights (Amendment) Ordinance 1997 was enacted to correct a Hong Kong court decision<sup>43</sup> holding that legislation repealed under the Bill of Rights was repealed only insofar as it applied to the government or public authorities, but not as between private persons. The amendment therefore provided only that once legislation is repealed by the Bill of Rights, it is repealed altogether, with respect to all parties.<sup>44</sup>

In July 1997, the provisional legislature suspended the Bill of Rights amendment (along with the labor ordinances discussed above) until earlier

---

37. See Stella Lee & Angela Li, *Security Ban on Freedom Rallies*, S.CHINA MORNING POST, July 19, 1997, at 1; HUMAN RIGHTS WATCH WORLD REPORT 1998, *supra* note 36, at 181.

38. Jane Moir & Billy Wong Wai-Yuk, *Call for Curbs on Police Powers*, S.CHINA MORNING POST (International), Nov. 15, 1997.

39. See Lucia Palpal-latoc, *Unions to Fight Law Ban in Court*, HONG KONG STANDARD, July 18, 1997, at 4.

40. See HUMAN RIGHTS WATCH WORLD REPORT 1998, *supra* note 36, at 181-82.

41. See Genevieve Ku, *Lawyers Seek Delay on Bill of Rights Changes*, S. CHINA MORNING POST, Feb. 7, 1998, at 6.

42. See Angela Li, *Monitor Issues Warning on Rights Bill*, S. CHINA MORNING POST (Feb. 25, 1998) <<http://www.scmp.com/news>>; Jimmy Cheung, *Vote Overturns Amendments to Bill of Rights*, S. CHINA MORNING POST (Feb. 26, 1998) <<http://www.scmp.com/news>>.

43. See *Tam Hing-ye v. Wu Tai-wai*, [1992] 1 H.K.L.R. 185 (Ct. App.).

44. See Margaret Ng, *Wrong Way on Rights*, S. CHINA MORNING POST, Jan. 23, 1998, at 21.



this year.<sup>45</sup> The SAR government argued that the amendment made the Bill of Rights binding on private persons as well as on government authorities, which would lead to a substantial increase in litigation and place an "unnecessary legal burden" on the public.<sup>46</sup> Suspension—and ultimately, repeal—of the pre-handover amendment was therefore essential in order to remove the law's "uncertainties and confusion."<sup>47</sup> In fact, however, the amendment would have had a much more limited effect, and government critics have characterized the official statements as misleading.<sup>48</sup>

It seems unlikely that the next SAR legislature will prove more sensitive to human rights issues or sympathetic to legislation intended to protect rights than the provisional legislature has shown itself to be. In August 1997 the provisional legislature adopted legislation establishing the new system for "elections" to the SAR's first regular Legislative Council, now scheduled for May 1998. The new scheme substantially reduces the franchise for the thirty functional constituency seats (from 2.7 million under the 1995 electoral system to 180,000),<sup>49</sup> and introduces a system of proportional representation for the twenty geographical constituencies (which were directly elected in 1995 on the basis of one person, one vote). As a result, the revised election system will clearly favor business interests and reduce the number of seats held by representatives of the pro-democracy groups.<sup>50</sup> Since the 1991 and 1995 electoral systems, both of which broadened the franchise, were found

---

45. See *Government Mum on Rights Bill* (Dec. 23, 1997) <hknews@ahkcus.org> (on file with author); May Sin-Mi Hon, *Interim Body to Weigh Sheaf of Bills Before Facing Disbandment*, S. CHINA MORNING POST, Dec. 26, 1997, at 4; Linda Choy, *Lawyer Deplores Bill of Rights Rollback*, S. CHINA MORNING POST, July 18, 1997, at 4.

46. Margaret Ng, *supra* note 44.

47. *Government to Scrap Rights Clause* (Jan. 17, 1998) <hknews@ahkcus.org> (on file with author).

48. The SAR government was also criticized for the timing of the consideration and repeal of the amendment; after the visit the Chief Secretary of Administration made to the U.S., in order to avoid questions on the repeal. See Andy Ho, *Into the Lions' Den*, S. CHINA MORNING POST, Dec. 23, 1997, at 19.

49. See Margaret Ng, *Executive's Cloak of Legality*, S. CHINA MORNING POST, Aug. 22, 1997, at 19; Danny Gittings, *Return to the Bad Old Days*, S. CHINA MORNING POST, Aug. 17, 1997, at 10. Under the Basic Law, no more than 12 of the total of 60 seats may go to foreign passport holders; the SAR allocated them all to the functional constituency seats, with none for the directly-elected seats—which will bar some candidates unless they renounce their citizenship. See Fanny Wong, *Poll Task Beset by Problems*, S. CHINA MORNING POST, Aug. 19, 1997, at 19. Under the arrangements for the geographical constituency seats, the Democratic Party calculated it would have to win 65% of the popular vote to win 25% of the seats. See Chris Yeung & May Sin-Mi Hon, *U.S. Official Told of "Lost Rights and Sham Poll"*, S. CHINA MORNING POST (Dec. 6, 1997) <http://www.scmp.com/new>.

50. See Margaret Ng, *We don't need Judge Pao*, S. CHINA MORNING POST, Sept. 5, 1997, at 27.

inconsistent with the provisions of the ICCPR, there is little doubt the new system will be similarly viewed.<sup>51</sup>

Despite the absence of any dramatic crackdown since July 1, the SAR government has thus enacted legislation that significantly departs from the international standards still applying to Hong Kong. The emphasis on "executive-led government" has also contributed, at least indirectly, to an erosion of rights, as matters previously viewed as rights or entitlements have become a matter of discretion for the chief executive. Although he has suggested that the SAR government would give priority to economic and social rights, many Hong Kong people see themselves as worse off than in the past, with the government failing to pay sufficient attention to their economic welfare.<sup>52</sup> Consequently, in their first six-month assessment of the SAR, Hong Kong human rights groups strongly criticized the government for its failure to support both political and economic rights in the territory—and a former legislator labeled the SAR government "more high-handed" than its colonial predecessor.<sup>53</sup>

#### IV. ACTIONS OF THE PRC GOVERNMENT

##### A. The ICCPR and the ICESCR in Hong Kong

Consideration of the PRC government's actions since July 1 produces a very different picture: apparent support for, and increased protection of, rights, instead of their limitation. Despite concern that Chinese interference would lead to a curtailment of rights in Hong Kong after 1997, the Chinese authorities have repeatedly affirmed their official policy of non-interference in the affairs of the SAR,<sup>54</sup> and so far at least their actions do not openly

---

51. See Editorial, 4 BILL OF RTS. BULL. 5 (Aug. 1997).

52. See Shirley Kwok, *One in 7 Survive on Less Than \$90 a Day*, S. CHINA MORNING POST (Sept. 8, 1997) <<http://www.scmp.com/news>>. Government statistics show that the gap between rich and poor in Hong Kong has widened over the last decade. See *Poor Left Behind as Income Gap Grows*, S. CHINA MORNING POST (International), Dec. 13, 1997, at 3; Lau Siu-kai, *Social Malaise on Rise as Values Abandoned*, S. CHINA MORNING POST (International), Jan. 17, 1998, at 6.

53. Oliver Poole, *Rights Being Ignored, Say Protestors*, S. CHINA MORNING POST, Dec. 11, 1997, at 6. Human rights activists maintained that at least six policies of the SAR government contravened the Universal Declaration of Human Rights, most of them relating to social and economic policies. See Sharon Cheung, *Tung "Turns Deaf Ear" to Public*, S. CHINA MORNING POST (Jan. 2, 1998) <<http://www.scmp.com/news>>.

54. For example, in the recent statements by then National People's Congress chairman Qiao Shi on a February visit to the SAR. See Chris Yeung & No Kwai-Yan, *Beijing Satisfied with SAR Rule, Qiao Tells Tung*, S. CHINA MORNING POST, Feb. 12, 1998, at 1.

contradict that stance.<sup>55</sup> Since July 1, moreover, the Chinese have taken a series of positive steps towards the implementation of the ICCPR and the ICESCR in the SAR.

Under heavy pressure since 1989 to ratify the two main international human rights covenants,<sup>56</sup> the Chinese finally signed the ICESCR in late October 1997.<sup>57</sup> PRC spokesmen made clear that the ICESCR would still be subject to "study" and ratification before it could be implemented in China, but some reports predicted the covenant could be sent to the National People's Congress for ratification as early as its March 1998 meeting.<sup>58</sup> Furthermore, according to Chinese President Jiang Zemin, the PRC is "now seriously considering the signing" of the second covenant, the ICCPR.<sup>59</sup> It will not be easy for China to resolve conflicts between the provisions of the ICCPR and its domestic legislation, so a double ratification is unlikely in the near future. But the PRC has taken an important preliminary step, one that should make it easier for the substance of the two covenants to be applied in Hong Kong, as the Joint Declaration and the Basic Law require.

In a second important move, the PRC formally assured U.N. officials that under the "one country, two systems" policy it would allow the application of the ICCPR and the ICESCR to Hong Kong, and that it would be prepared to submit reports to the U.N. Committees on Hong Kong's behalf, even though China is not a state party<sup>60</sup> to either of the covenants.<sup>61</sup> Although the reports would be submitted to the U.N. Committees via the Chinese Foreign Ministry, the HKSAR government would prepare the actual

---

55. The first study on the SAR's political status carried out by a congressional task force praised China's apparent lack of interference in Hong Kong's affairs. See Simon Beck, "So Far, So Good" *Transition Verdict*, SUNDAY MORNING POST, Nov. 23, 1997, at 2.

56. The PRC had promised to sign, or indicated it was about to do so, on a number of occasions. For example, in April 1997, China announced it would sign the ICESCR before the end of 1997. See *Hong Kong Rights Group Skeptical on China Move*, REUTERS WORLD SERVICE, Apr. 8, 1997, available in LEXIS, News Library, Reuwlid File; *Protecting Rights*, S. CHINA MORNING POST, Apr. 12, 1997, at 16.

57. See Tom Korsky & Simon Beck, *Beijing Signs but Stalls on Fulfilling UN Rights Covenant*, S. CHINA MORNING POST (International), Nov. 1, 1997, at 1.

58. See Jonathan Braude, *Beijing "Willing to Ratify Rights Covenant"*, S. CHINA MORNING POST, Jan. 25, 1998, at 6.

59. *China Weighs Signing Human Rights Accord*, AAP INFO.4 SERVS. LTD., AAP NEWSFEED, Jan. 15, 1998, available in LEXIS, News Library, Aapnew File.

60. State parties to the ICCPR undertake to submit reports to the Human Rights Committee on the measures they have adopted to give effect to rights provided for in the covenant. See 999 U.N.T.S. art. 40. Article 16 of the ICESCR provides for a similar undertaking. See 993 U.N.T.S. art. 16.

61. See *U.N. Pleased with Rights Policies in Hong Kong*, CHINA DAILY, Dec. 1, 1997, at 1. Chris Yeung, *Beijing Vow on Rights Reports*, S. CHINA MORNING POST (International), Nov. 29, 1997, at 1.

reports (they would be "mainly written" by Hong Kong officials), and Hong Kong officials would be permitted to speak on behalf of the Chinese delegation at the U.N.<sup>62</sup>

#### B. Significance of the Hong Kong Reporting

In most countries little importance may be attached to reports mandated by the ICCPR or the ICESCR (few people read or critique them), but in Hong Kong, the reporting process played a very significant role during the decade before the handover. Although Britain's first report on the implementation of the ICCPR in Hong Kong, which was submitted in 1978 as part of a longer report on its dependent territories, did not generate much local interest, the U.N. Human Rights Committee began raising questions on human rights issues in the territory.<sup>63</sup> The second periodic report, submitted (five years late) in 1988, attracted much more attention. By then Britain had agreed under the Joint Declaration to return Hong Kong to China, a country that had not ratified either of the two covenants.<sup>64</sup>

The two most recent periodic reports (both submitted after June 4, 1989) were widely distributed, reported in the press and subjected to extensive local criticism.<sup>65</sup> Issues relating to the reports were raised in the Legislative Council. Local, as well as international, Non-Governmental Organizations submitted rebuttals<sup>66</sup> and sent representatives to testify in Geneva, and proceedings before the Human Rights Committee were closely followed in Hong Kong.<sup>67</sup> Although more attention was directed towards the

---

62. See No Kwai-Yan & Genevieve Ku, *Beijing Puts U.N. Human Rights Reports in Hands of Local Officials*, S. CHINA MORNING POST, Nov. 25, 1997, at 6.

63. Nihal Jayawickrama, *Hong Kong and the International Protection of Human Rights*, in HUMAN RIGHTS IN HONG KONG, 120, 134-5 (Raymond Wacks ed., 1992). Britain submitted a total of four periodic reports (1978, 1988, 1991 and 1995) to the Human Rights Committee along with a series of supplementary reports. The final report was submitted at the request of the Committee in 1997, to cover the human rights situation in Hong Kong up to June 30, 1997. See 4 BILL OF RTS. BULL. 62 (Aug. 1997).

64. See Jayawickrama, *supra* note 63, at 136-37.

65. See, e.g., Angela Li, *Rights Appeal to Britain*, S. CHINA MORNING POST, Dec. 21, 1995, at 2; Louis Won, *Rights Report to U.N. Under Fire; Document 'Fails to Reflect Concerns'*, S. CHINA MORNING POST, June 7, 1996, at 4.

66. Hong Kong on the eve of the handover had an extremely active and lively range of NGOs. See George E. Edwards, *Hong Kong: Preserving Human Rights and the Rule of Law*, 12 AM. U. J. INT'L L. & POL'Y 361, 408 (1997).

67. See Emily Lau, *United Front on Human Rights*, S. CHINA MORNING POST, Oct. 16, 1995, at 18; Chris Yeung, *Solicitor-General Calls For Candour On Rights*, S. CHINA MORNING POST, Oct. 13, 1995, at 6; Linda Choy, *U.N. To Be Lobbied Over Human Rights Report*, S. CHINA MORNING POST, Oct. 21, 1996, at 4; Angela Li, *Rights Appeal to Britain*, S. CHINA MORNING POST, Dec. 21, 1995,

ICCPR reports, Britain also submitted reports on the implementation of the ICESCR, and these too drew criticism in the territory.<sup>68</sup>

During those years, human rights groups and the Human Rights Committee raised a broad spectrum of issues for comment and criticism. In the earlier sessions, for example, British representatives were asked to explain the continued existence of the death penalty, the use of corporal punishment, immigration and police powers, and questionable provisions of the Official Secrets Act and the Public Order Ordinance.<sup>69</sup> With later reports, the focus shifted to arrangements for the transition, including particularly the independence of the judiciary, composition of the court of final appeal, provisions of the Bill of Rights, anti-discrimination laws, police conduct, election arrangements and the provisional legislature, and freedom of assembly and association under the Public Order and Society Ordinances.<sup>70</sup>

In all these critical areas, the actions of both the British and Hong Kong governments were held up to scrutiny, not only within the territory but also in the international community, and their officials were pressed to account for perceived failures in implementing the covenants in Hong Kong. The reporting process provided Hong Kong people with an opportunity for participation not otherwise available to them and thereby spurred the development of rights consciousness in Hong Kong. The process also led to concrete results, as the Hong Kong government was pressured or shamed into the amendment or repeal of Hong Kong's most egregious restrictions on rights.

### C. China's Role in Reporting

An important issue in the run-up to 1997, therefore, was whether China would continue reporting on the implementation of the ICCPR and the ICESCR in Hong Kong after the territory's reversion, and if so, by what

---

at 2.

68. See Andrew Byrnes, *Will the Government Put its Money Where its Mouth Is? The Verdict of the UN Committee on Economic, Social and Cultural Rights on Hong Kong's Human Rights Record*, 25 H.K. L.J. 156 (1995).

69. See Jayawickrama, *supra* note 63, at 136-37.

70. See, e.g., THE THIRD PERIODIC REPORT OF THE UNITED KINGDOM IN RESPECT OF ITS DEPENDENT TERRITORIES UNDER ARTICLE 40 OF THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS (October 1989), reprinted in PUBLIC LAW AND HUMAN RIGHTS, *supra* note 8, at 421; MARCH 1991 UPDATE, reprinted in PUBLIC LAW AND HUMAN RIGHTS, *supra* note 8, at 437; THE FINAL REPORT BY THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND IN RESPECT OF HONG KONG UNDER THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS, reprinted in 4 BILL OF RTS. BULL. 62 (Aug. 1997).

means. British officials argued that such reporting would still be required, a view supported by human rights groups in Hong Kong and in the international community. The U.N. Human Rights Committee unanimously took the view that China was under an obligation to continue reporting, either under the Joint Declaration or as a matter of general international law.<sup>71</sup> Some questions remained, including the manner of reporting and the jurisdiction of the U.N. committees to accept reports or complaints directly from Hong Kong in the absence of ratification by China, but the Human Rights Committee indicated its willingness to be flexible.<sup>72</sup> The Committee on Economic, Social and Cultural Rights adopted a similar stance, suggesting (if less strongly) that reporting should be continued after the 1997 transition, and it too expressed its willingness to receive reports.<sup>73</sup>

Human rights experts argued that China had undertaken procedural as well as substantive obligations with respect to the ICCPR and the ICESCR when it promised in the Joint Declaration that the provisions of the two conventions "as applied to Hong Kong shall remain in force." To ensure that the covenants remained in force after 1997, China would have to continue the reports.<sup>74</sup> Supporters of reporting also relied on the theory of state succession, under which human rights treaties devolve with territory; once human rights treaties have entered into force in a territory, they must survive any change in sovereignty. Under either argument, China would be obligated to continue the reporting, regardless of whether China was a state party.<sup>75</sup>

But China's position was problematic; at least during the 1990s, the PRC repeatedly denied that it was under any obligation to continue reporting to the U.N. committees. Since it was not a state party to either covenant, the PRC argued that it could not be bound to prepare or submit such reports. Moreover, if Hong Kong wished to continue the process on its own, it was

---

71. See Johannes Chan, *State Succession to Human Rights Treaties: Hong Kong and the International Covenant on Civil and Political Rights*, 45 INT'L COMP. L.Q. 928, 934 (1996). The Human Rights Committee requested that Britain submit a supplementary report in 1996 to report on developments relating to reporting mechanisms. See Christine Loh, *Human Rights-In a Time Warp?*, in THE OTHER HONG KONG REPORT 1996, at 107 (Nyaw Mee-kau & Li Si-ming eds., 1996).

72. See Frank Ching, *U.N. Speaks Out on Hong Kong. Human-Rights Panel Asks for Reports on Territory After 1997*, FAR E. ECON. REV., Nov. 23, 1995, at 40; Chan, *supra* note 71, at 939-40.

73. See Byrnes, *supra* note 68.

74. The meaning of the phrases "shall remain in force" and "as applied to Hong Kong" were the subject of disagreement. See Chan, *supra* note 71, at 928.

75. See Nihal Jayawickrama, *Human Rights in Hong Kong: The Continued Applicability of the International Covenants*, 25 H.K. L.J. 171, 172-73 (1995); Chan, *supra* note 71, at 928-38.

not clear that China would allow the HKSAR government to do so.<sup>76</sup> As a result, the issue was debated in Hong Kong with some feeling, plenty of ink was spilled on the topic, and China's steadfast refusal to commit itself to continue the reporting caused great anxiety in the run-up to 1997.

#### D. Unresolved Issues

China's announcement that it would continue the reporting was therefore greeted with relief in Hong Kong, but several issues have yet to be resolved, including the actual timing of submissions. According to one source, Beijing is expected to submit the reports on behalf of Hong Kong to the two U.N. committees in August, but Hong Kong officials could not confirm it.<sup>77</sup> A more important issue is the extent to which Hong Kong people will be consulted on the draft reports the SAR government prepares. Human rights groups in Hong Kong have called for public consultation before the reports are finalized,<sup>78</sup> and broader consultation would ensure a more accurate submission. Although SAR spokesmen have promised consultation, it appears that the reports will not be released before being sent to Beijing, and only the final versions will be published.<sup>79</sup>

Finally, it is not clear whether the Chinese government will submit the reports as drafted by the SAR or insist on introducing its own amendments.<sup>80</sup> The PRC has refused to commit itself,<sup>81</sup> insisting that revisions are an

---

76. See S.Y. Yue, *H.K. Rights Report to UN Delayed by Britain*, S. CHINA MORNING POST, Oct. 31, 1994, at 3; David Wallen, *UN in Pledge for Freedoms*, S. CHINA MORNING POST, Oct. 19, 1995, at 4; *Move to Ease Concern Over Human Rights*, S. CHINA MORNING POST, Nov. 16, 1995, at 4; Emily Lau, *Breaking a Promise on Rights Covenants*, S. CHINA MORNING POST, July 8, 1996, at 18.

77. See Li, *supra* note 42. A spokesman for the Home Affairs Bureau had heard of no such development.

78. See Chris Yeung, *Public Input Plea Over UN Rights Reports*, S. CHINA MORNING POST, Nov. 23, 1997, at 2.

79. See May Sin-Mi Hon, *Fears Over Fate of SAR Rights Study*, S. CHINA MORNING POST, Jan. 25, 1998, at 2. The recently prepared report on the *Convention on the Elimination of all forms of Discrimination Against Women* allowed "consultation-but that took the form of headings announced to the public, who could submit comments under those headings. No Kwai-Yan & Genevieve Ku, *Beijing Puts UN Human Rights Reports in Hands of Local Officials*, S. CHINA MORNING POST, Nov. 25, 1997, at 6.

80. *U.K. Puts Faith in Poll Body* (Dec. 2, 1997) <hknews@ahkcus.org> (on file with author); May Sin-Mi Ho, *Fears Over Fate of SAR Rights Study*, S. CHINA MORNING POST, Jan. 25, 1998, at 2.

81. See No Kwai-Yan, *Beijing Cautious on Rights Reports*, S. CHINA MORNING POST (Dec. 4, 1997) <<http://www.scmp.com/news>>.

internal matter for China.<sup>82</sup> In the event, this will prove a crucial test of China's good faith.<sup>83</sup> For China's decision to continue the reporting process raises a larger issue: does it represent a lasting commitment to implementation of the covenants in Hong Kong or is it simply a policy shift to deflect criticism? China formally announced a "policy decision" to allow the two covenants to remain in force in Hong Kong, not a recognition of the PRC's obligations (whether under the Joint Declaration or general international law) to do so.<sup>84</sup> China's stance may only reflect its position that it could not be bound to report until its own ratification of the ICCPR and ICESCR.<sup>85</sup> The PRC has always viewed it as a question of sovereignty and may well have announced its willingness to comply only when it could no longer appear to be under pressure from the British.<sup>86</sup> But policy in China can and does change frequently. At the moment it is in China's interest to allow the reporting to continue, but if that changed, the policy could also be reversed, particularly in the still-sensitive area of human rights.<sup>87</sup> It is unlikely that China would openly renege on its recent promises, but it could certainly interfere with the reports prepared by the HKSAR for submission to the UN or insist on revisions to its satisfaction.

## V. CONCLUSION

In the months since the July 1, 1997 handover, the PRC authorities have shifted to a moderate policy towards Hong Kong, a sharp contrast to the final years of British rule, when they waged relentless press campaigns against the Hong Kong and British government and officials.<sup>88</sup> Now that the

- 
82. The issue was raised at the December 1997 meetings of the Sino-British Joint Liaison Group, the first sessions held since the handover, but the Chinese refused to answer when British representatives asked. See Frank Ching, *New Era for Britain and China*, FAR E. ECON. REV., Dec. 18, 1997, at 80; U.K. *Puts Faith in Poll Body* (Dec. 2, 1997) <hknews@ahkcus.org> (on file with author).
83. See Christine Lo, *One Country, Two Human Rights Reports*, CHINA RTS. F., Winter 1997-98, at 14-15.
84. See, e.g., *UN Pleased with Rights Policies in Hong Kong*, CHINA DAILY, Dec. 1, 1997, at 1.
85. See Chan, *supra* note 71, at 945.
86. See *All to the Good*, SUNDAY MORNING POST, Nov. 23, 1997, at 10.
87. Some commentators have expressed skepticism at the sincerity of China's moves, arguing that the timing suggests attempts to avoid UN censur or carry out "charm offensives." See, e.g., Peter Humphrey, *Hong Kong Rights Group Skeptical on China Move*, REUTERS WORLD SERVICE, Apr. 8, 1997, available in LEXIS, News Library, Reuworld File; Trevor Marshallsea, *Charm Offensive Continues Through Jiang's US Tour*, AAP INFO. SERVS. LTD., AAP NEWSFEED, Oct. 28, 1997, available in LEXIS, News Library, Aapnew File.
88. See, e.g., Ching, *New Era*, *supra* note 82.



"bad marriage" with Britain is over and the bitter quarrels of the transition period are safely past, China has also apparently reversed its policies on some individual issues, finally agreeing to continue reporting for Hong Kong under the ICCPR and ICESCR. These actions constitute positive steps for the protection of rights in Hong Kong—and seemingly contradict the actions of the SAR government, now so intent on introducing legal restrictions to limit rights in the territory.

But is there really such a contradiction between Chinese and SAR policies on rights? With a handpicked legislature and chief executive in the SAR to do their bidding, Chinese officials need no longer pursue their former hard line.<sup>89</sup> From the PRC point of view, the Bill of Rights has been neutralized, Chinese ideas of national or state security are being introduced, whether formally or informally, into the SAR, and those who are not "patriotic" have been ousted from the legislature, with little chance of returning under new (and carefully designed) election rules.

Under these circumstances, international human rights law must still provide the concrete standards against which to measure the SAR's performance, as well as international supervision for the performance of China's obligations under the covenants.<sup>90</sup> The reporting process to the U.N. human rights committees remains a key to that protection, providing the only avenue for Hong Kong people (now increasingly shut out from political participation or consultation) to bring complaints or call attention to abuses in Hong Kong in an international forum.<sup>91</sup> Although the U.N. committees cannot force either the PRC or the HKSAR to take action, they can hold the actions of both governments up to international scrutiny and criticism.

China's apparent non-interference in the affairs of the SAR and its recent moves towards recognition of the international human rights regime do deserve credit. But the restrictive legislation introduced by the SAR government itself and the possibility of future, less benevolent policy shifts

---

89. This is certainly the view of opposition critics. See Sharon Cheung, *Chief "Fails to Deliver,"* S. CHINA MORNING POST, Dec. 30, 1997, at 4. The chief executive has also been criticized for supporting Beijing's positions outside matters related to Hong Kong. Danny Gittings, *Ins and Outs of Leadership,* S. CHINA MORNING POST, Dec. 28, 1997, at 8. A recent U.S. Congress report also suggested that Hong Kong may be quietly doing Beijing's bidding for fear of upsetting the PRC. See Simon Beck, *SAR "May Be Quietly Toeing the Line,"* S. CHINA MORNING POST (Feb. 28, 1998) <<http://www.scmp.com/new>>.

90. See Jayawickrama, *supra* note 63, at 134.

91. See RODA MUSHKAT, *ONE COUNTRY, TWO INTERNATIONAL LEGAL PERSONALITIES: THE CASE OF HONG KONG*, 126-29 (1997). Human Rights Monitor and other Hong Kong human rights groups have already threatened to raise the repeal of the Bill of Rights amendment at the UN Commission on Human Rights meeting in March-April 1998. See Li, *supra* note 42; Cheung, *supra* note 42.

on China's part mean that these issues cannot be ignored. Double ratification by the PRC of the two international rights covenants would of course remove many difficulties relating to their implementation in Hong Kong. In the meantime, international rights covenants—and their reporting procedures—still have a particularly important role to play in protecting human rights in Hong Kong, just as they did before July 1, 1997.